

REGIONAL TRIBAL OPERATIONS COMMITTEE MEETING
U.S. EPA REGION 5
LITTLE RIVER BAND OF OTTAWA INDIANS
JUNE 02, 2004

Meeting Participants

David Jones, Nottawaseppi Huron
Stan Ellison, SMSC
Jon Monasmith, Saginaw Chippewa
Scott Wieting, Hannahville
Dwight Sargent, ITC
Jeff Mears, Oneida
Margaret Guerriero, USEPA
Paulette Foreste, USEPA
Tim Henry, USEPA
Edward Fairbanks, USEPA
Carol J. Jorgensen, USEPA
Don DeBlasio, USEPA
John Haughland, USEPA
Stephanie Ogren, LRBOI

Mark Parrish, Pokagon Band
AJ Matthews, Burt Lake
Sally Kniffen, Saginaw Chippewa
Mike Tenenbaum, Gun Lake
Rachel Schwarz, LTBB
Norm Niedergang, USEPA
Doug Ballotti, USEPA
Steve Rothblatt, USEPA
Patricia Thompson, USEPA
Jennifer Manville, USEPA
Gary Gulezian, USEPA
Bert Frey, USEPA
W.K. Dew, USEPA
Frank Beaver, LRBOI

Welcome and Introductions

Stan Ellison and Norm Niedergang opened the meeting and welcomed the participants. Introductions were made.

RTOC Administrative Business and Updates

The meeting minutes from March 03, 2003, were previously distributed, and a copy was included in the information packet. A request was made to correct the spelling of "STORET" on page 4 of the meeting minutes. The correction will be made and a revised copy distributed. Thereafter the minutes were approved by Dew.

Manville indicated that there was one follow-up item from the March meeting. The RTOC Tribal Caucus was asked to poll their respective states to determine whether there was interest in scheduling a meeting between the tribes, state environmental agencies, and the U.S. EPA. Ellison responded that there was not much interest in Minnesota. Jones reported that there is interest in Michigan, and recently the tribes had a meeting with the Michigan Department of Environmental Quality. Mears indicated that Oneida would be interested in a meeting. It was agreed that the Tribal Caucus would poll the tribes in their respective states to determine: (1) general interest in such a meeting; (2) whether the meetings should be held in each state or all

together; (3) potential agenda items for the meeting. Tribal Caucus should be submit this information to the Indian Environmental Liaison/Indian Environmental Office by June 30, 2004. Included in the meeting packet was a copy of the U.S. EPA Region 5 Regional Tribal Operations Committee Charter and a Resolution entitled "Creating Flexibility for Scheduling the RTOC Meeting in Conjunction with the GAP Conference." The Resolution proposed to amend Section 5-A of the RTOC Charter as follows:

The RTOC will meet once during each federal quarter. The meeting will be scheduled for 1:00-4:00 pm on the first Wednesday of the last month of each federal fiscal quarter (December, March, June, September). The RTOC reserves the right to be flexible in scheduling the RTOC meeting when held concurrently with the annual General Assistance Program Conference. Two meetings each year will be held on a Region 5 Indian Reservation, and will rotate among the three states.

The voting members of the RTOC unanimously approved the Resolution.

Ellison provided an update on the National Tribal Operations Committee. Budget documents have been prepared. A policy analyst position will be funded by U.S. EPA to assist the NTOC. The position will be housed at a tribal site. A document outlining the tribal national priorities has been developed, and the information in the Region 5 tribal environmental agreements had a large impact on preparation of these priorities. A copy of the NTOC national tribal priorities will be distributed to the tribes. The paper that Ellison prepared on the General Assistance Program was discussed. Ellison needs to send a letter to the Administrator to open the discussion at the staff level.

Manville provided an update on the Federal Multi-Agency MOU Work Group. The Work Group last met on May 11, 2004, at the Bureau of Indian Affairs offices in Minneapolis. The Indian Health Service is preparing the official meeting notes, which will be distributed to the tribes and posted on the U.S. EPA Indian Environmental Office website. The primary agenda topics included: (1) draft paper entitled "Coordinating NEPA Requirements with Multiple Agencies", (2) 5-year review of the language in the Memorandum of Understanding, (3) proposed federal partnership meeting on tribal waste management on August 17, 2004. The next scheduled meeting of the Work Group will be held on August 16, 2004, at the U.S. EPA offices in Chicago.

Update from American Indian Environmental Office (AIEO)

Jorgenson indicated that she had intended to participate in the March meeting, but a medical problem prevented her attendance. She provided some information on her background and work with tribal governments.

Jorgenson distributed a copy of the American Indian Environmental Office Tribal Plan 2004. The areas of emphasis include: develop and implement a comprehensive U.S. EPA National Tribal Strategy, ensure incorporation of subsistence lifeways into U.S. EPA's decision making process, enhance collaborative partnerships to ensure a unified approach to program management, ensure availability of accurate and comprehensive data to support quality environmental decisions, ensure a consistent environmental presence in Indian Country.

Jorgenson also discussed the Indian Policy Program Council (IPPC), which is comprised of senior managers from Headquarters and the Regions. The IPPC is tasked with considering Agency-wide tribal issues, including: tribal lifeways, direct implementation tribal cooperative agreements (DITCAs), education/training for U.S. EPA staff, tribal portal/one-stop shop website for tribes.

The AIEO is working on the National Tribal Conference on Environmental Management, which is scheduled for 2005 and will be hosted by the Grand Traverse Band of Ottawa and Chippewa Indians. In years when a national conference is not scheduled, the AIEO would like to have a joint meeting of the NTOC/RTOCs. The proposed timeframe is October-November 2004.

Mears inquired on the current status of DITCAs. Jorgenson responded that there are about 8 successful DITCAs nationwide. The issue of funding is critical. AIEO is attempting to make the case to the Office of General Counsel that DITCAs are an essential tool for the Agency. Jorgenson is hopeful that the IPPC will get the issue moving. Frey reported that on April 29, 2004, the Agency issued interim guidance on federal inspector credentials for the Federal Insecticide, Fungicide and Rodenticide Act and the Toxic Substances Control Act. This guidance authorizes credentials for these two federal programs. Interim guidance for other U.S. EPA programs is due to be issued later this month. Final guidance should be issued in September 2004. A copy of the April 29th guidance will be provided to the tribes.

Ellison stated that budget issues are beginning to be a concern in Region 5. Although the Clean Water Act Section 106 funding has been flatlined for some time, the number of tribes participating in the program is increasing which means smaller allocations. This is beginning to be a problem for air quality program funding as well. Tenenbaum raised the issue that "younger" tribes are at a disadvantage. With no increases to the national funding levels, their programs cannot grow. Jorgenson indicated that the AIEO is pushing to raise the annual General Assistance Program funding level from \$110,000 to \$125,000. In addition, she distributed a document entitled "Draft Performance Grant Fund Structure".

Draft U.S. EPA Region 5 Protocol for Communicating with Tribal Governments

Dew reported that the Indian Environmental Office is working on the Protocol. Input from the tribes and the Regional Indian Work Group has been incorporated. The draft document will be presented to the Region 5 Division Directors and then finalized.

Michigan Tribal-State Environmental Agreement

Beaver distributed copies of the "Intergovernmental Accord between the Federally Recognized

Indian Tribes in Michigan and the Governor of the State of Michigan Concerning Protection of Shared Water Resources” and Executive Directive No. 2004-5 Tribal-State Relations. Beaver stated that Michigan Governor Granholm met with the Michigan Tribal Chairs on May 12, 2004. Beaver views the Intergovernmental Accord as an opportunity to increase cooperation and coordination between the tribes and the state. The focus is on water quantity and quality.

Beaver also distributed copies of recently adopted resolutions from the National Congress of American Indians.

Status of Tribal Environmental Agreement Planning Process

Haugland reported that the Fiscal Year 2004-2006 tribal environmental agreements (TEAs) have been signed, and Region 5 has used the information for preparing the Agency budget. Draft versions of the Fiscal Year 2005-2007 TEAs should be out by the end of June and signature copies developed in July.

Ten years ago the TEA process was first initiated. Haugland will be coordinating two activities to evaluate the TEAs. First, a retrospective of the TEA process will be developed through interviewing people involved over the past 10 years. Successes, barriers, lessons learned, etc. will be identified. The final product will be shared with the tribes. Second, an assessment will be conducted on how best to use the TEAs in the current climate of the Agency. This effort will likely require a taskforce of tribes, Region 5 staff, and maybe a representative from AIEO. Haugland asked the RTOC to consider what sort of questions should be asked during this assessment. Input from the RTOC included:

- what are the TEAs used for, what is the intended use
- could TEAs be used to limit/restrict funding for tribes
- originally the TEAs were agreements negotiated with U.S. EPA management, now they seem to be more of a form/contract
- has there been any analytical data comparing resource numbers in the TEAs and actual level of funding received
- are TEAs being developed nationally, if not, what benefit is it to those who do participate (Jorgenson interjected that Region 5 has been the model, and this information is needed to help justify funding requests and show results. Some other Regions are also preparing TEAs)
- tribal planning phase of the TEAs seems to have shrunk, needs more emphasis

Haugland would like to have discussions with the tribal technical groups in the near future.

OECA Tribal Enforcement and Compliance Assurance Priority

Included in the RTOC information packet was a copy of the National Tribal Compliance Assurance Priority, EPA and RTOC Meeting in Denver, CO May 4-5, 2004. Jones explained that tribes are one of the priorities of the Office of Enforcement and Compliance Assurance. A meeting was held on May 4-5, and the discussions are summarized in the packet material. Jones would like tribal comments and input during the next week (davidjones@voyager.net). Haugland will send an electronic version to the tribes.

Uniform Great Lakes Water Quality Standards

Henry introduced Pat Thompson as the new Branch Chief for the Region 5 Water Division State and Tribal Programs Branch. Thompson will be working to fill the Deputy Branch Chief position by June 11, 2004.

Michigan Governor Granholm announced the uniform Great Lakes water quality standards initiative in April 2004. Henry indicated that in the mid-1990s, the Great Lakes Water Quality Initiative was issued which included water quality standards. While these standards have been implemented, they are not in all cases being met. The Governor's announcement could reflect this situation. Gulezian added that there was a recent report on the Great Lakes that was very negative – not enough monitoring, no consistent environmental standards, etc. The Governor's announcement could be a call to the other states to request action.

Executive Order – Great Lakes Task Force

A press release entitled “Great Lakes Task Force Created to Coordinate Federal Restoration Efforts” was included in the RTOC information packet. Gulezian explained that this is an effort for regional collaboration, and tribes will be invited to participate. Tenenbaum raised the issue that there continues to be reluctance to recognize that tribes are sovereigns and should be included in the Great Lakes planning process. Gulezian responded that the U.S. Policy Committee is open to any tribes that want to participate. Recognizing that it may be difficult for tribes to get engaged in the planning process, Gulezian offered to work with interested tribes to present a Great Lakes 101 tutorial.

Open Forum

Ellison reported on a grant-related issue that recently was raised in Minnesota. A tribe currently has a lead (Pb) program grant from U.S. EPA that includes gathering information from tribal members through surveys. It has recently come to EPA's attention that gathering information in this manner may present an issue under the Paperwork Reduction Act. The Office of Regional

Counsel and the Waste, Pesticides and Toxics Division will investigate this particular situation. In addition, the broader issue of obtaining information through surveys/interviews funded under U.S. EPA grants will be added to the agenda for the September 2004 meeting.

Haugland announced that a conference entitled "Public Sector Approaches to Promoting Sustainable Development" will be held on July 26-27, 2004. A flyer on the conference was included in the RTOC information packet.

Next Meeting

The next meeting of the RTOC is scheduled for September 01, 2004, and will be hosted by the tribes in Minnesota.